

Office of the Inspector General of the Department of Defense

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Evaluation of the Policies and Practices for the Utilization of DNA Technology within the Military Criminal Investigative Organizations

Executive Summary

Introduction. Deoxyribonucleic Acid (DNA) testing was first used in a criminal investigation in the mid 1980s. Since that time it has become one of the most high profile investigative tools available and one that is highly effective. DNA testing has helped investigators identify perpetrators of violent crimes and the remains of missing persons or victims of mass disasters, as well as exonerate the innocent.

In DoD, the Military Criminal Investigative Organizations (MCIOs)¹ are responsible for investigating major crimes within their respective areas of responsibility. MCIO investigative policies and procedures include the processing of crime scenes. The use of DNA analysis of evidence as an investigative tool by the MCIOs has grown considerably in recent years because improved technology has rendered more accurate results. Further, DNA evidence is being used more frequently to convict perpetrators and exonerate suspects. Currently, within the DoD, the U.S. Army Criminal Investigation Laboratory (USACIL) is the only military forensic laboratory capable of DNA analysis.

On December 19, 2000, Congress passed the DNA Analysis Backlog Elimination Act of 2000 (PL 106-546). The Act authorized Federal assistance to States to enable them to clear their backlogs of DNA samples collected from convicted offenders and crime scenes, provided the resulting DNA profiles are entered into the Combined DNA Index System of the Federal Bureau of Investigation (FBI). For DoD, this Act added the requirement to collect, analyze, and index DNA samples from persons convicted of certain offenses under military law. On May 16, 2001, the Under Secretary of Defense for Personnel and Readiness (USD (P&R)) issued a memorandum to the Services establishing policy for implementing the Act. The memorandum requires USACIL to analyze all DNA samples collected from Armed Forces members convicted of certain military offenses, and to send the results to the FBI for inclusion in the National DNA Index System, an element of CODIS.

¹ The MCIOs are the U.S. Army Criminal Investigation Command; the Air Force Office of Special Investigations; and the Naval Criminal Investigative Service, which services the Navy and Marine Corps.

Objectives. The primary objective of this evaluation was to assess the effectiveness of MCIO policies and practices regarding the use of DNA technology. Specifically, we evaluated the extent to which investigators use DNA analysis and the adequacy of DoD resources for processing DNA in support of criminal investigations and in meeting legislative requirements for convicted offender DNA analysis and indexing.

Evaluation Results. Special agents in the MCIOs use DNA technology as an investigative tool and have achieved effective results. Using DNA technology, investigators are able to solve crimes by identifying the perpetrators of violent crimes and by clearing blameless suspects. However, our evaluation determined that improvements could be made in using DNA technology.

- Additional clarification or guidance to MCIO agents is needed on submission of DNA evidence for analysis in unknown subject² cases.
- The Naval Criminal Investigative Service (NCIS) must reduce the backlog of rape kits³ on unknown subject cases that have not been submitted to a laboratory for DNA analysis.
- Additional training on DNA technology may be warranted to improve agent awareness of DNA database capabilities.
- MCIO agents need to use forensic laboratories that are CODIS certified to ensure DNA evidence profiles are entered into the FBI forensic evidence index of CODIS.

Summary of Recommendations. We recommend that the Commanders, U.S. Army Criminal Investigation Command and Air Force Office of Special Investigations, and the Director, Naval Criminal Investigative Service, provide additional guidance or clarification for submission of DNA evidence in unknown subject cases. We also recommend that the Naval Criminal Investigative Service either contract out or work with the U.S. Army Criminal Investigation Laboratory to reduce their backlog of unprocessed rape kits currently being stored in evidence facilities. Further, we recommend that the Commanders, U.S. Army Criminal Investigation Command and Air Force Office of Special Investigations, and the Director, Naval Criminal Investigative Service, provide training or take other action as necessary to ensure that agents are familiar with CODIS and understand its significance as an investigative tool. Finally, we recommend that the Director, Naval Criminal Investigative Service, and the Commander, Air Force Office of Special Investigations, review guidance to agents on

² In the criminal investigative community, the term “subject” is used to refer to a person suspected of having committed a crime.

³ Rape kits provide medical personnel a standardized means of obtaining and preserving biological evidence from victims of rapes and sexual assaults, ensuring the quality, quantity, and preservation of evidentiary specimens.

the use of laboratories for DNA analysis and ensure that laboratories used are CODIS certified.

Management Comments.

The Army, Navy, and Air Force concurred with the recommendation that additional guidance and training be provided for submission of potential DNA evidence in unknown subject cases to forensic laboratories for analysis.

The Navy concurred with the recommendation to work with the U.S. Army Criminal Investigation Laboratory to clear up the NCIS backlog of unprocessed rape evidence currently being stored in evidence facilities.

The Army, Navy, and Air Force concurred with the recommendation to provide training or take other action as necessary to strengthen agents' awareness of CODIS, and to understand its significance as an investigative tool.

The Navy concurred with the recommendation to review guidance to agents on the use of laboratories for DNA analysis and ensure that laboratories used are CODIS certified. The Air Force partially concurred stating they concurred in theory; however, there were several reasons why they would not mandate the use of a CODIS laboratory for DNA analysis at this time, including increased costs and increased turn-around times. They agreed to review and update their list of approved laboratories, and to keep the list updated.

Evaluation Response. The Army and Navy concurred with all recommendations. The Air Force disagreed with the recommendation to require the use of CODIS certified laboratories for conducting DNA analyses. While they agreed there would be added benefits, they will not mandate the use of CODIS certified laboratories at this time because of possible increased costs and turn-around times for processing evidence. We request the Air Force reconsider its position and provide comments to the final report by June 16, 2002.

A discussion of management comments can be found in this report following each recommendation. The complete text of management comments can be found following Appendix B.